

**UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF MICHIGAN**

OWEN W. BARNABY,)
Plaintiff- Appellant)

Vs.) Hon. Robert J. Jonker
) Hon. Mag. Sally J. Berens

MICHIGAN STATE GOVERNMENT, ET, AL
Defendants- Appellees) Case No. 1:22 -CV- 1146

Owen W. Barnaby
P.O. Box 1926
Kennesaw, GA 30156
(678) 382- 4183
Bossproperties96@gmail.com

Attorney T. Hackworth
Berrien County Government
701 Main Street, St. Joseph, Michigan 49085
T. (269) 983-7111, ex 8416 | thackworth@berriencounty.org

Attorney, T. Seth Koches,
Niles-Charter-Township/Board of Trustee
470 W. Centre Ave., Ste. A, Portage, MI. 49024
T. 269-382-4500 Koches@michigantownshiplaw.com

Jeffery R. Holmstrom (P29405)
Holmstrom Law Office PLC
830 Pleasant Street Suite 100
St. Joseph, MI 49085
T. (269)-983-0755 | jeff@holmstromlawoffice.com

Attorney Emily P Jenks
6th Floor at Ford Field
1901 St. Antoine St. Detroit, MI 48226
T: 313-393-7582 | EJenks@bodmanlaw.com

Berrien County Courthouse,
811 Port St, St Joseph, MI 49085

Pendrick Kimberly Attorney General of Michigan
525 W. Ottawa, 5th Floor
P.O. Box 30736, Lansing, MI 48909
T. 517-335- 7659 | PendrickK@michigan.gov

PLAINTIFF'S MOTION IN OPPOSITION TO,

**BERRIEN COUNTY DEFENDANTS' MEMORANDUM OF LAW IN SUPPORT OF
THEIR MOTION TO DISMISS THE THIRD AMENDED COMPLAINT**

**AND WITH PLAINTIFF'S CROSS-MOTIONS, FOR SUMMARY JUDGMENT
PURSUANT TO RULE 56(a), AND FOR SANCTION PURSUANT TO RULE 11**

Comes now Plaintiff, In Pro Se, Owen W. Barnaby, requesting that this Your Honorable Court **Denny**, Berrien County Defendants' Memorandum of Law in Support of Their Motion to Dismiss the Third Amended Complaint, filed pursuant to Fed. R. Civ. P. 4(m) and 12(b)(5) and pursuant to Fed. R. Civ. P. 12(b)(6), finding that it is moot. In addition, for Motion for Sanctions Under Fed. R. Civ. P. 11, and Motion for Summary Judgment under Fed. R. Civ. P. 56(a), as clear there are no genuine disputes of material fact, Plaintiff is entitled to Summary Judgment as a matter of law.

The law is clear, "Summary judgment is proper if there are no genuine disputes of material fact, and the moving party is entitled to judgment as a matter of law. Fed. R. Civ. P. 56(a). The burden then shifts to the non-moving party to make a showing sufficient to establish the existence of an essential element to his claims. Id. To satisfy this burden, the nonmovant cannot rest on the pleadings, but must show by affidavit or other documentary evidence, specific facts showing there is a genuine issue for trial. Fed. R. Civ. P. 56(c). A mere scintilla of evidence is insufficient- "there must be evidence on which the jury could reasonably find for the [nonmovant]." *Anderson v Liberty Lobby, Inc.* 477 U.S. 242, 252 (1986).

Plaintiff's Opposition to Defendants' Motion to Dismiss and his Motion for Summary Judgment are based on this Brief in Support filed with the request facts and legal authorities and arguments contained in the Supporting Brief.

Respectfully Submitted,

Dated: April 01, 2024,

\S/ Owen W. Barnaby

Owen W. Barnaby, In Pro Se

CERTIFICATE OF SERVICE

The undersigned states that on the 1st day of April 2024, a duplicate original of Plaintiff's, PLAINTIFF'S MOTION IN OPPOSITION TO, BERRIEN COUNTY DEFENDANTS' MEMORANDUM OF LAW IN SUPPORT OF THEIR MOTION TO DISMISS THE THIRD AMENDED COMPLAINT AND WITH PLAINTIFF'S CROSS-MOTIONS, FOR SUMMARY JUDGMENT, PURSUANT TO RULE 56(a), AND FOR SANCTION PURSUANT TO RULE 11 EXPEDITED CONSIDERATION REQUESTED, Plaintiff's Brief, against all named Defendants filed with the Clerk using the ECF System, which will provide electric notice to the parties of record, and I have emailed and mailed by U.S. Postal Service the same to the non-ECP participants attorney above.

Respectfully Submitted,

Dated: April 1, 2024,

S/ Owen W. Barnaby
Owen W. Barnaby, In Pro Se.

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CERTIFICATE REGARDING COMPLIANCE WITH LCivR 7.1(d)

For,

PLAINTIFF'S MOTION IN OPPOSITION TO,

**BERRIEN COUNTY DEFENDANTS' MEMORANDUM OF LAW IN SUPPORT OF
THEIR MOTION TO DISMISS THE THIRD AMENDED COMPLAINT**

**AND WITH PLAINTIFF'S CROSS-MOTIONS, FOR SUMMARY JUDGMENT
PURSUANT TO RULE 56(a), AND FOR SANCTION PURSUANT TO RULE 11**

In accordance with W.D Mich. LCivR 7.1(d), the undersigned hereby states that I am seeking concurrence for three Motions I intend to file with the Federal District Court on April 1, 2024. The first Motion is for excess brief pages and words count, the second Motion is as promised to Sanction Defendants for filing of frivolous motion, to evade liabilities for Plaintiff's injuries and third Motion is a Cross-Motions for Summary Judgments to Defendants' Dismissal Motion. Please, confirm if Defendants will concur. Plaintiff is yet to hear back from Defendants as such Plaintiff is not sure if they will concur or object.

Respectfully Submitted,

Dated: April 2024,

\S/ Owen W. Barnaby
Owen W. Barnaby, In Pro Se.